



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Sony Corporation of America--Reconsideration

File: B-225512.3

Date: April 10, 1987

DIGEST

Request for reconsideration that basically only reiterates previously-rejected arguments does not warrant reversal or modification of the prior decision.

DECISION

Sony Corporation of America requests reconsideration of our decision denying its protest against the award of a contract for high-density video tape cassettes to Spartan Industries, Inc., under request for proposals (RFP) No. F04606-86-R-0233, issued by the Department of the Air Force, Sacramento Air Logistics Center, California. Sony Corporation of America, B-225512, Feb. 24, 1987, 66 Comp. Gen. ___, 87-1 CPD ¶ ___.

We affirm our prior decision.

The RFP limited competition to products manufactured by four previously approved sources, including Sony, that were listed in the solicitation. However, clause M-46 of the RFP permitted offers from other firms to be considered provided they presented sufficient data to allow the government to evaluate the acceptability of the offered items. The Air Force technical evaluators found the tape cassettes offered by Spartan to be acceptable. Sony had protested that Spartan, which was not listed in the solicitation as an approved source, failed to submit adequate data to permit the government to evaluate the Spartan proposal as acceptable.

Our prior decision explained that the solicitation, contrary to Sony's position, did not require that unapproved sources submit test data to support claimed performance characteristics of the offered substitute item. Rather, we held that the solicitation only required engineering data ("such as manufacturing controlled drawings, qualification test reports, quality assurance procedures, etc.") that the agency considered adequate for evaluation purposes. We also noted that the RFP did not define any standards that a substitute product would have to meet to be acceptable for government

use. Nevertheless, we stated that in the interest of enhancing competition, an agency's decision to accept an unapproved source's substitute item in an approved source procurement will not be questioned by our Office unless the agency decision was tantamount to fraud or willful misconduct. Since no such showing was made, we denied the protest.

In its request for reconsideration, Sony essentially repeats its previous arguments. Sony again argues that the solicitation did require unapproved sources to submit test data. The protester also argues that the solicitation failed to set forth standards that a substitute product would have to meet and that the Spartan tape did not meet the specifications of the approved sources' products. Additionally, Sony again argues that the agency did not notify the firm that a substitute product would be accepted which did not meet the qualifications of an approved source's product. Sony's repetition of its earlier arguments show that it simply disagrees with many of the conclusions in our prior decision; however, mere disagreement or reiteration of a previously-rejected position does not provide a basis for reversing a decision. Spectrum Leasing Corp., B-213647, Sept. 10, 1984, 84-2 CPD ¶ 267; Adams-Keleher, Inc.--Request for Reconsideration, B-213452.2, Apr. 18, 1984, 84-1 CPD ¶ 442.

Finally, Sony had also protested that Spartan only submitted its technical literature concerning its tape to the Air Force during discussions and that therefore Spartan's initial proposal was informationally deficient. We stated that in negotiated procurements, informational deficiencies in an initial proposal are a proper subject for resolution through discussions, which occurred here. Sony now claims that this conclusion is factually incorrect since only telephonic discussions were conducted by the Air Force with the offerors and Spartan submitted no technical data in its best and final offer. In response, the Air Force states that it mistakenly reported to us that the literature from Spartan was submitted during discussions; in fact, according to the Air Force, Spartan submitted its technical literature in its initial proposal. In either case, we think the literature was properly submitted and accepted for consideration.

Our prior decision is affirmed.

Harry R. Van Cleve
Harry R. Van Cleve
General Counsel